

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

11-cr-0059 (LAK)

SAIKOU DIALLO,

Defendant.

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ORDER

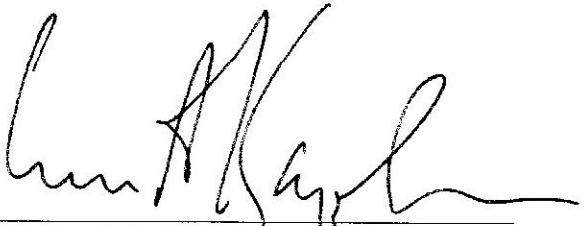
LEWIS A. KAPLAN, *District Judge*.

For the reasons stated by the government, defendant's reliance on COVID related circumstances to establish extraordinary and compelling circumstances is without merit. Among other things, the risk of contracting COVID does not do so in the case of an individual who was offered and refused vaccination as is the case with this defendant.¹ Hence, the extraordinary and compelling circumstances argument boils down, as the government contends, to the contention that defendant has undergone substantial rehabilitation. Granting relief on that ground alone would run afoul of 28 U.S.C. § 994(t). Accordingly, I hold that the defendant is foreclosed as a matter of law from relief under 18 U.S.C. § 3582(c).

The motion [Dkt 972] is denied.

SO ORDERED.

Dated: July 9, 2021



Lewis A. Kaplan
United States District Judge

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There is no suggestion that defendant refused the vaccine on religious grounds, which might present the matter in a different light.